



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Renew Collection

Numbers 3038-0068 and 3038-0083: Confirmation, Portfolio Reconciliation,

Portfolio Compression, and Swap Trading Relationship Documentation

Requirements for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or “Commission”) is announcing an opportunity for public comment on the proposed renewal of two collections of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the collections of information mandated by Commission regulations (Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants).

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments, identified by “Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation

Requirements for Swap Dealers and Major Swap Participants,” and Collection Numbers 3038-0068 and 3038-0083, by any of the following methods:

- The Agency’s website, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Gregory Scopino, Special Counsel, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, (202) 418-5175; email: gscopino@cftc.gov.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement,

the CFTC is publishing notice of the proposed collections of information--treated as a consolidated collection--listed below.

Title: Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants (OMB Control Nos. 3038-0068 and 3038-0083).¹ This is a request for an extension of currently approved information collections.

Abstract: On September 11, 2012 the Commission adopted Commission regulations 23.500—23.505 (Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants)² under sections 4s(f), (g) and (i)³ of the Commodity Exchange Act (“CEA”). Commission regulations 23.500—23.505 require, among other things, that swap dealers (“SDs”)⁴ and major swap participants (“MSPs”)⁵ develop and retain written swap trading relationship documentation. The regulations also establish requirements for SDs and MSPs regarding swap confirmation, portfolio reconciliation, and portfolio compression. Under the regulations, swap dealers and major swap participants are obligated to maintain records of the policies and procedures

¹ Historically, PRA Collections 3038-0068, 3038-0083, and 3038-0088, which impose interrelated requirements, were renewed as a consolidated collection. *See* 81 FR 6241 (Feb. 5, 2016). However, on April 1, 2019, the CFTC published an interim final rule (IFR), which allows uncleared swaps to retain its legacy status when transferred in connection with a no-deal Brexit. *See* 84 FR 12233. This IFR directly affects the calculation of burdens in PRA Collection 3038-0088. Accordingly, the proposed renewal now treats collections 3038-0068 and 3038-0083 as a consolidated collection, with collection 3038-0088 being considered separately.

² 17 CFR 23.500—23.505.

³ 7 U.S.C. 6s(f), (g) & (i).

⁴ For the definition of SD, *see* Section 1a(49) of the CEA and Commission regulation 1.3, 7 U.S.C. 1a(49) and 17 CFR 1.3.

⁵ For the definitions of MSP, *see* Section 1a(33) of the CEA and Commission regulation 1.3, 7 U.S.C. 1a(33) and 17 CFR 1.3.

required by the rules.⁶ Confirmation, portfolio reconciliation, and portfolio compression are important post-trade processing mechanisms for reducing risk and improving operational efficiency. The information collection obligations imposed by the regulations are necessary to ensure that each swap dealer and major swap participant maintains the required records of their business activities and an audit trail sufficient to conduct comprehensive and accurate trade reconstruction. The information collections contained in the regulations are essential to ensuring that swap dealers and major swap participants document their swaps, reconcile their swap portfolios to resolve discrepancies and disputes, and wholly or partially terminate some or all of their outstanding swaps through regular portfolio compression exercises. The collections of information are mandatory. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

With respect to the collections of information, the CFTC invites comments on:

- Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burdens of the proposed collections of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

⁶ SDs and MSPs are required to maintain all records of policies and procedures in accordance with Commission regulation 1.31, including policies, procedures and models used for eligible master netting agreements and custody agreements that prohibit custodian of margin from re-hypothecating, repledging, reusing, or otherwise transferring the funds held by the custodian.

- Ways to minimize the burdens of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.⁷

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is revising its estimate of the burdens for the collections to reflect the current number of respondents and estimated burden hours. The respondent burdens for the collections are estimated to be as follows:

- **OMB Control No. 3038-0068 (Confirmation, Portfolio Reconciliation, and Portfolio Compression Requirements for Swap Dealers and Major Swap Participants)**

⁷ 17 CFR 145.9.

Number of Registrants: 101.

Estimated Average Burden Hours Per Registrant: 1,274.5.

Estimated Aggregate Burden Hours: 128,724.5.

Frequency of Recordkeeping: As applicable.

- **OMB Control No. 3038-0083 (Orderly Liquidation Termination Provision in Swap Trading Relationship Documentation for Swap Dealers and Major Swap Participants)**

Number of Registrants: 101.

Estimated Average Burden Hours Per Registrant: 270.

Estimated Aggregate Burden Hours: 27,270.

Frequency of Recordkeeping: As applicable.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: April 26, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

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